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C O N F I D E N T I A L SECTION 01 OF 02 BEIJING 002429

SIPDIS

E.O. 12958: DECL: 08/24/2029
TAGS: PGOV PHUM PROP SOCI CH
SUBJECT: PRC HUMAN RIGHTS: XU ZHIYONG (ON BAIL) AND ILHAM
TOHTI RELEASED

REF: A. BEIJING 2123
 1B. BEIJING 2005
 1C. BEIJING 1770

Classified By: Political Minister Counselor Aubrey Carlson.
Reasons 1.4 (b) and (d).

Summary

11. (C) On August 23, detained rights activist Xu Zhiyong and ethnic Uighur academic Ilham Tohti were released from police custody. Also released was Zhuang Lu, a codefendant in the state's "tax evasion" case against Xu and his NGO, the Open Constitution Initiative. Tohti, whose writings had been critical of PRC ethnic policies in Xinjiang, had been detained without charge since July 7 in the aftermath of the early July ethnic unrest in Urumqi. Xu and Zhuang, detained since July 29 in connection with the closure of the Beijing offices of the Open Constitution Initiative (Gongmeng) on charges of failure to pay taxes, were released on bail. The criminal charges remain in place, although Xu said he had been told that if he were not summoned by the court within one year the charges would be dropped. Chinese human rights lawyers credited outside pressure for the government's decision to release these high-profile detainees. Other activists noted that the detentions had been widely unpopular among mainstream Chinese academia and expressed the view that the government had made the decision in order to remove a public opinion irritant in the run-up to the October 1 sixtieth anniversary of the founding of the PRC. End Summary.

Xu Zhiyong and Zhuang Lu: Status

12. (SBU) PolOff spoke with Teng Biao, Beijing lawyer and Gongmeng co-founder, who confirmed that Xu had been released on bail. Teng explained that Xu had been released because a guarantor had come forward and paid an undisclosed amount of bail. Chinese media outlets have alleged that the guarantor was Xu's employer, Beijing University of Posts and Telecommunications. Teng confirmed that Gongmeng staff member Zhuang Lu, detained along with Xu, had been released, although she had not yet been in contact with her Gongmeng colleagues.

Xu's Release Conditional

13. (C) Teng Biao confirmed that Xu's release was conditional. If within one year's time Xu did not hear from the courts, the charges against him would be dropped. However, Xu had to report any planned travel outside Beijing, and he was required to carry identification with him at all times. In comments to the media, Xu's lawyer Zhou Ze said he believed that the charges were groundless. Teng Biao told us that a number of Gongmeng lawyers continued to practice as private attorneys but that Gongmeng itself remained closed. Zhang

Dajun (protect), of the Gongmeng-affiliated NGO the Transitions Institute, expressed belief that it would be very difficult for Gongmeng to begin operations again but raised the possibility that the organization could be reconstituted under a new name.

¶4. (SBU) On Teng's advice, Post has not yet sought a direct meeting with Xu. Several EU embassies, at the French Embassy's initiative, contacted Xu August 24 requesting a meeting. Xu reportedly agreed to meet "when appropriate." Teng suggested that an appropriate time may be after the celebration of the national holidays the first week of October.

Ilham Tohti Released

¶5. (C) On August 23, economist, Uighur activist and National Minorities University (Minzu Daxue) Professor Ilham Tohti told PolOff over the phone that he had been freed from detention. Tohti was unwilling to discuss his situation in detail, saying that "they are listening to my phone calls" and he feared being detained again. He thanked the Embassy for its interest in his case. Tohti's personal blog has been deleted by webhost Sina. PolOff has confirmed a meeting with Tohti on the evening of August 24.

Possible Reasons for Xu's Release

¶6. (C) Chinese press quoted human rights lawyer Zhang Xingshui, as stating that the decision to release Xu was the

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result of public opinion. In comments to the media upon his release, Xu himself stated, "I think this outcome was the result of pressuring and urging from many friends and many quarters. We'll have to see what it means, and we can't entirely exclude the possibility of prosecution. But if that happens, I'll defend myself vigorously." (Note: The USG has repeatedly raised Xu's case in Washington and Beijing. Significantly, on August 21, the MFA Human Rights Division postponed a scheduled meeting with PolMinCouns to discuss Xu's case noting that "in a few days" Post would "understand the reason for the delay.")

¶7. (C) Zhang Dajun (protect), of the Transitions Institute, a group founded by Gongmeng board member Guo Yushan (protect), stated today that he believed Xu's release was a strategic "concession" on the part of the Chinese government. While the Chinese government's original intention behind detaining Xu and closing Gongmeng might have been to discourage other civil society elements from engaging in public activism, Xu's formal arrest had generated an unanticipated level of negative public opinion. Zhang added that Xu's continued detention, widely unpopular among China's academic community, could have developed into a public opinion irritant in the period leading up to the October 1 national day celebrations.

Finally, Zhang suggested that Xu was easier to control outside prison than inside. With criminal charges pending against Xu for at least one more year, the government retained considerable leverage over Xu. In Tohti's case, Zhang believed that the Chinese government had never intended to file criminal charges against him. Rather, the government had detained Tohti as a source of information during the investigation following the Urumqi unrest. The stabilization of the situation in Xinjiang had resulted in the government releasing Tohti, Zhang said.

¶8. (C) The release of Tohti and Xu should not be considered "a friendly gesture" to the United States by the Chinese government, liberal journalist and blogger Zhao Jing (protect) (also known by his blogging moniker Michael Anti) told PolOff. It was possible, however, that the Chinese Government had released the two to prevent their detention from becoming an issue during preparations for the visit this

fall of President Obama to China, speculated Zhao. Regarding Xu, Zhao said that the real purpose of his arrest was to signal the government's displeasure over the financial role of U.S. organizations in the development of Chinese civil society. In this case, however, the government "chose the wrong guy," as Xu's arrest had irritated many mainstream reformers.

HUNTSMAN